



## Administrative Policies and Procedures: 9.5

<b>Subject:</b>	<b>Access and Release of Confidential Child-Specific Information</b>
<b>Authority:</b>	TCA 36-1-125 through 36-1-141, TCA 37-1-153, TCA 37-1-409, TCA 37-1-612, TCA 37-2-408, TCA 37-5-106-107, TCA 33-3-103, TCA 33-3-104
<b>Standards:</b>	ACA 3-JTS-1E-05, ACA 3-JTS-1E-06, ACA 3-JTS-1E-07, ACA 3-JCRF-1C-17 DCS Practice Model Standard 7-102 A and 8-306
<b>Application:</b>	All Department of Children's Services Employees

### Policy Statement:

DCS shall ensure that the access and release of confidential child-specific information, regardless of media, will be limited to individuals, agencies and organizations which demonstrate a "need and right to know" or have received written authorization from the child or their legal representative.

### Purpose:

DCS wants to protect the privacy of the children in its care while providing access to information to people who have a need or right to know and has established guidelines for the release of confidential information.

### Procedures:

<b>A. Access to Child Records</b>	<ol style="list-style-type: none"><li>1. Access to confidential records information shall be restricted and functionally accessible only to authorized individuals as designated by appropriate DCS and private provider management.</li><li>2. Each DCS director, Regional Administrator, and residential treatment facility superintendent/director must identify DCS employees, e.g., records coordinator/clerk, <b>Family Service Worker (FSW)</b>, team coordinator, and other designated personnel who are authorized to develop and maintain or to have access to confidential case file records in order to perform job specific duties as required by law, regulations, policies and procedures.</li><li>3. Authorized private service providers must identify staff that are authorized to develop and maintain or to have access to confidential case file records in order to perform job specific duties.</li><li>4. Procedures will be implemented to insure privacy and to avoid a conflict of interest for authorized individuals when confidential case record information pertains to them or their relatives.</li><li>5. Verification practices may include, but not be limited to, the following:<ol style="list-style-type: none"><li>a) Presentation of a signed authorization with a social security number or photo driver's license;</li></ol></li></ol>
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	<ul style="list-style-type: none"> <li>b) Presentation of agency/private provider identification, credentials or other proof of government/organization status;</li> <li>c) Submission of a written request on agency/organization letterhead;</li> <li>d) Presentation of a valid court order;</li> <li>e) Verify phone requests using a callback business telephone number;</li> <li>f) Verification of electronic mail address by calling requestor's general telephone number, confirming employment, and then request to be transferred to the specific individual who made the request; or</li> <li>g) Verify facsimile number of any fax requests by reviewing imprint origin.</li> </ul> <p>6. Access or release of child case files and related information, irrespective of media; (e.g., paper, microfilm, etc.), shall be managed and shall not be disclosed except as noted by statute, rule, or policy.</p> <p>7. The department shall also comply with federal regulations and accreditation standards concerning the accessibility and release of child-specific record information to only authorized individuals and agencies.</p>
<b>B. DCS Policies and Other Rules and Regulations Governing Record Information</b>	<p>Specific DCS policies and other rules and regulations shall apply regarding the following record series:</p> <p><b>1. Medical Records</b></p> <p>Access to the child's medical records shall be treated as confidential and shall not be open for inspection by members of the public. Only authorized personnel may have access to the child's medical record in accordance with DCS policy <a href="#">20.25. Health Information Records and Access</a> and DOE policy <a href="#">20.47. Access of Medical Records</a> that govern health/medical records. Specific guidelines regarding the disclosure of protected health information (PHI) will be according to Health Insurance Portability and Accountability Act (HIPAA) law.</p> <p><b>2. Educational Records</b></p> <p>Access to educational records, e.g., report cards, transcripts, special education identification sheets and GED certificates, for a child residing in a youth development center (YDC) or placed in other facilities such as group homes, private provider agencies, etc. will be handled in accordance with DOE policy <a href="#">9.3. Student Education Records</a> which governs education records.</p> <p><b>3. Child's Master File</b></p> <ul style="list-style-type: none"> <li>a) The <b>master file</b> for a custodial child shall be treated as confidential and shall not be opened for inspection by members of the public. Only authorized personnel may have access to the child's case file. The child's master file is deemed to be the property of the Department and neither the child nor his/her parent or guardian has the authority to release this information. Under no circumstances shall the name of the referent in a child protective services case be released.</li> <li>b) The Department may utilize any information it has or may acquire in order to provide services for the child.</li> </ul>

	<p>c) The Department may release any information it has to any person or entity that may be providing services to the child.</p> <p>d) Any person or entity that is provided access to records under this provision of the policy shall be required to maintain the records in accordance with state and federal laws &amp; regulations regarding confidentiality.</p> <p><b>4. Mental Health and Substance Abuse Records</b></p> <p>Access to the mental health and substance abuse records of children shall be treated as confidential and shall not be open for inspection by members of the public. Only authorized personnel may have access to the child's mental health records in accordance with DCS policy <a href="#">20.25, Health Information Records and Access</a> and DOE Policy <a href="#">20.47, Access of Medical Records</a> and Tennessee Code Annotated 33-3-101 et seq. and 42 U.C.S.A. 290dd-2.</p> <p><b>5. Adoption Records</b></p> <p>Access to sealed adoption records will be handled in accordance with the <i>DCS Adoption Policy and Procedures Manual and Rule 1240-7-7</i> which govern adoption records.</p> <p><b>6. Foster Care Records</b></p> <p>Access to foster care records regarding the child and their family's background and health history will be provided, in a timely manner, to the resource parent and will be handled in accordance with DCS policy <a href="#">20.25, Health Information Records and Access</a> and the <i>Foster Parents' Bill of Rights</i>.</p> <p><b>7. Child Protective Services (CPS) Records</b></p> <p>Access to child protective services investigative records regarding specific events or referrals concerning a child or family will be handled in accordance with DCS Policy <a href="#">14.13, Confidentiality of Child Protective Services Cases and Information</a> and Rule 1240-7-9 which governs CPS records.</p> <p><b>8. Finance/Accounting Records</b></p> <p>Access to child records shall be handled in accordance with DCS policies governing fiscal records.</p>
<b>C. Release of Records</b>	<p><b>1. General:</b></p> <p>a) Access to both open and closed child case records requested through a valid court order will be released.</p> <p>b) Access to both open and closed child case records requested through a valid subpoena may be provided, but the subpoena must be inspected by DCS legal before the records can be released.</p> <p>c) Judicial, correctional, law enforcement, and service providers that have established both a "need and right to know" may have limited access to confidential departmental records at the discretion of the Commissioner of Children's Services or designee.</p>

**2. Access to Records by Adults Who Were Previously in DCS Custody:**

- a) An adult, who was in DCS custody as a child, has a **limited right** of access to examine, make notes, and request a copy of portions of their own file and have the right to a reasonable explanation and interpretation of the information.
- b) They may also request to have another individual present during the review.
- c) A written request must be made which includes the purpose of the review and the specific information to be reviewed.
- d) Arrangements shall be made to have the record reviewed in the presence of authorized staff during normal business hours.
- e) Each person who requests and receives a copy of portions of their file shall agree to sign form **CS-0684, confidentiality agreement** in which they agree to keep all of their information confidential and not release the information to the public.
- f) Child protective services records will not be released unless the person presents a valid subpoena or a court of competent jurisdiction orders the release of these records.

**3. If a Birth Parent, Guardian, Surrogate, or Resource Parent is requesting the Record:**

A birth parent, guardian, surrogate, or resource parent, if appropriate, of a child in custody or risk of custody shall be allowed to meet with the case manager or supervisor assigned to the case and they shall have the right to a reasonable explanation and interpretation of the records.

**4. In all situations:**

- a) Each office and facility shall establish procedures and set up a logging system to record requests for information on both active and closed files for tracking purposes. The log shall include the following information:
  - ◆ Name of child/youth;
  - ◆ Social Security Number;
  - ◆ Date of birth;
  - ◆ Type of request;
  - ◆ Reason for Request;
  - ◆ Date of release; and
  - ◆ Name of person Information was released to.
- b) Both written and verbal releases of confidential information from active case files will be documented in TN KIDS case recordings and documentation for inactive/closed case (paper) files will be noted on a Sign-In/Sign-Out log maintained in the front of the case file.
- c) Controls and logging procedures will be reviewed with appropriate personnel in order to prevent the unauthorized or premature release of confidential information.

<b>D. Exceptions</b>	<ol style="list-style-type: none"><li>1. Information considered to be damaging to the child or impacting the safety and security of others, such as medical, psychiatric, psychological, police or incident reports, etc., may be withheld from the child, their parent or guardian or any other person requesting the records.</li><li>2. All records, reports and information that were not written or produced by the Department of Children's Services or a private provider agency shall not be automatically released as part of the Department's file.</li><li>3. Under no circumstances shall the name of the referent in a child protective services case be released.</li></ol>
<b>E. Fees</b>	<ol style="list-style-type: none"><li>1. When information that is contained within child case files is reproduced or printed for release to a requester, a reasonable fee per page may be assessed.<ul style="list-style-type: none"><li>◆ Note: As of the effective date of this policy, DCS charges .15 cents per single-sided page and .20 cents per double sided page. Additional information can be found in Chapter 0250-6-1 of the Rules of the TN Dept. of Children's Services.</li></ul></li><li>2. The assessing and collection of such fees shall be done in accordance with DCS fiscal policies and procedures that govern such matters.</li><li>3. The fees may be waived at the discretion of DCS management.</li></ol>
<b>F. Appeal Process</b>	<ol style="list-style-type: none"><li>1. Individuals and agencies, which believe that they have demonstrated a "need and right to know", that are denied access to confidential record information by authorized personnel may appeal within fifteen (15) days to the appropriate director, regional administrator, treatment facility superintendent/director, or authorized designee and their determination to approve or modify the decision will be final.</li><li>2. The appropriate deputy commissioner or executive director must receive written notification of any such appeal.</li></ol>
<b>G. Violation Sanctions</b>	<ol style="list-style-type: none"><li>1. The unauthorized disclosure of certain confidential record information may punishable as a crime and subject to prosecution.</li><li>2. Violation of this policy by DCS personnel may result in disciplinary action, up to and including termination.</li><li>3. Violation of this policy by private provider personnel may result in contract termination.</li></ol>

<b>Forms:</b>	<i>CS-0559 Authorization for Release of Child-Specific Information from the Tennessee Department of Children's Services and Contract Service Providers</i> <i>CS-0684 Confidentiality Agreement</i>
<b>Collateral documents:</b>	All Applicable DCS Policies and Procedures